

TO CORRECT ERRORS IN THE AUTHORIZATIONS OF CER-
TAIN PROGRAMS ADMINISTERED BY THE NATIONAL
HIGHWAY TRAFFIC SAFETY ADMINISTRATION

JUNE 25, 1999.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. BLILEY, from the Committee on Commerce,
submitted the following

REPORT

[To accompany H.R. 2035]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, to whom was referred the bill
(H.R. 2035) to correct errors in the authorizations of certain pro-
grams administered by the National Highway Traffic Administra-
tion, having considered the same, report favorably thereon without
amendment and recommend that the bill do pass.

CONTENTS

	Page
Purpose and Summary	2
Background and Need for Legislation	2
Hearings	5
Committee Consideration	5
Roll Call Votes	5
Committee Oversight Findings	5
Committee on Government Reform Oversight Findings	5
New Budget Authority, Entitlement Authority, and Tax Expenditures	5
Committee Cost Estimate	5
Congressional Budget Office Estimate	6
Federal Mandates Statement	7
Advisory Committee Statement	7
Constitutional Authority Statement	7
Applicability to Legislative Branch	7
Section-by-Section Analysis of the Legislation	7
Changes in Existing Law Made by the Bill, as Reported	8

PURPOSE AND SUMMARY

H.R. 2035, a bill to correct errors in the authorizations of certain programs administered by the National Highway Traffic Safety Administration, is intended to correct mistakes made in the authorizations for the National Highway Traffic Safety Administration's (NHTSA's) motor vehicle safety and information programs during consideration of H.R. 2691, the National Highway Traffic Safety Administration Act of 1998, in the 105th Congress, when the Administration failed to inform the Committee of changes in their budget request for those programs. For Fiscal Years 1999–2001, the bill provides annual authorizations for motor vehicle safety programs in the amount of \$98,313,500 and for motor vehicle information programs in the amount of \$9,562,500.

BACKGROUND AND NEED FOR LEGISLATION

In 1966, Congress enacted the National Traffic and Motor Vehicle Safety Act (P.L. 89–563) to reduce traffic accidents, and the deaths and injuries resulting from those accidents. As part of that mission, the Secretary of Transportation was given authority to establish appropriate motor vehicle safety standards. In 1970, Congress enacted the Highway Safety Act of 1970, which formally established the National Highway Traffic Safety Administration, the agency with the day-to-day responsibility for reducing the deaths, injuries, and economic losses resulting from motor vehicle accidents.

NHTSA was last reauthorized at the end of the 105th Congress as part of the Transportation Equity Act for the 21st Century (TEA–21; P.L. 105–178, as amended by P.L. 105–206). The reauthorization language included in the TEA–21 conference report was the result of an extensive reauthorization process within the Committee on Commerce, which resulted in the House passage of H.R. 2691, the National Highway Traffic Safety Administration Act of 1998 (H. Rpt. 105–477). Much of H.R. 2691, as passed by the House, was included in the TEA–21 conference report, along with Senate provisions addressing NHTSA rulemaking on advanced air bag technology.

The Committee notes that the NHTSA reauthorization package ultimately included in TEA–21—and supported on a bipartisan basis—contained a number of important provisions which will improve the safety of the Nation's fleet of motor vehicles. It includes provisions addressing the safety of air bags and the development of the next generation of restraint technology, improving the quality of information available to consumers about where their motor vehicles are manufactured, restricting the ability of NHTSA to engage in the inappropriate lobbying of State and local officials, and eliminating a number of redundant and wasteful regulatory and reporting requirements.

Among the other issues considered during the Committee's reauthorization process was the level at which the agency was to be funded. During the drafting of the bill, the Committee solicited the views of the Administration on the appropriate authorization level. For Fiscal Years 1998–2000, the Administration requested \$81.2 million annually for motor vehicle safety activities and \$6.2 million

annually for motor vehicle information activities, for a total of \$87.4 million annually. During the Subcommittee on Telecommunications, Trade, and Consumer Protection's hearings on H.R. 2691, NHTSA Deputy Administrator Philip R. Recht testified in favor of those authorization levels:

First, section 2 on authorizations: this section would reauthorize our motor vehicle safety and our motor vehicle information and cost savings programs for fiscal year 1999 through fiscal year 2001. *It would reauthorize the programs at the precise funding levels which we requested, and we, of course, support that section of the bill.* (October 29, 1997; Serial No. 105-52, p. 4; emphasis added.)

These were the funding levels that were ultimately enacted for NHTSA for Fiscal Years 1999-2001.

At the beginning of February 1998, the President submitted his budget and increased his request for NHTSA motor vehicle information and safety programs to a total of \$99.8 million for FY 1999-2001. However, NHTSA never informed the Committee of that fact. In fact, the agency endorsed the enacted authorization levels on March 19, 1998—more than a month and a half after submission of the President's budget. Ms. Nancy E. McFadden, General Counsel to the Department of Transportation, wrote in a letter to Chairman Bliley commenting on H.R. 2691:

We appreciate the Committee's willingness to incorporate the funding levels that the Department [of Transportation] requested for its vehicle safety and consumer information programs. The funding levels will enable us to continue the vital work of these programs, to the benefit of the motoring public. (emphasis added)

Shortly after enactment of TEA-21, Secretary of Transportation Rodney Slater wrote Senate Commerce Committee Chairman McCain noting that "through a technical oversight * * * [NHTSA's authorization levels] were not changed to reflect the Administration's budget request." Secretary Slater went on to ask that NHTSA's total authorization be increased to \$99.8 million for FY 1999 through 2001 in the TEA-21 technical correction legislation. While neither the House nor the Senate agreed to the Administration's request, there was an agreement between NHTSA and the Committee to review the agency's request at a later date.

Clause 2 of Rule XXI of the Rules of the United States House of Representatives prohibits the appropriation of funds in excess of an express authorization in law. Accordingly, funds appropriated to the agency for motor vehicle safety and information programs for Fiscal Year 1999 were limited to the enacted authorization level, resulting in appropriations approximately 14 percent lower than the level requested. To compensate for this shortfall, the Administration made several one-time transfers of funds from other accounts to fund motor vehicle safety and information programs.

Early in the 106th Congress, in discussions with the Committee, the Administration warned that without a change in the enacted authorization levels and the ability to seek higher appropriated levels, NHTSA would be unable to fully meet its regulatory and statu-

tory obligations. In particular, the agency highlighted the following areas that would be underfunded:

Agency activities in support of key rulemakings, including advanced air bags and upgraded frontal and side protection standards would be reduced by approximately 50 percent;

Crash testing under the National Crash Assessment Program (NCAP), including the testing of new vehicles with reduced-power air bags, would be reduced by 50 percent;

Research into improvements in motor vehicle crashworthiness and biomechanics, including the development of new crash test dummies, would be cut by more than 50 percent;

Research into crash avoidance and development of anti-lock braking system test procedures would be delayed;

Support for the Partnership for a New Generation of Vehicles (PNGV) would be eliminated;

Special crash investigations on advanced air bag systems would be curtailed; and,

Vehicle safety compliance and defects investigations would be cut back.

In its FY 2000 budget submission, the Administration requested \$106.13 million for motor vehicle safety programs (a 31 percent increase over enacted levels), and \$9.83 million for motor vehicle information activities (a 59 percent increase over enacted levels). NHTSA contends that a large portion of these funds is needed to make up for funds that were not available during Fiscal Year 1999 due to its reduced authorization level.

However, even the Administration admits that its request for FY 2000 and 2001 includes funds for programs that were not contemplated at the time the original authorization bill was enacted. This caused concern among some Members of the Committee that the Administration was seeking a funding increase for the agency rather than correcting a mistake in the original authorization.

H.R. 2035 changes the authorizations for NHTSA for Fiscal Years 1999 through 2001 to provide for an annual maximum of \$98.3 million for motor vehicle safety programs and \$9.6 million for motor vehicle information programs, for a total annual authorization of \$107.9 million. This amount is approximately \$8.1 million over the agency's FY 1999 request, but is \$8.6 million less than the Administration's request for FY 2000–2001.

The bill essentially splits the difference between the two requests. The Committee believes that this funding level will permit the agency to bring its programs to the point they would have been absent the Administration's mistake, but does not fund increases in excess of those levels.

During consideration of H.R. 2035, several Members expressed concerns about recent agency activities. Some Members expressed concern about the agency's efforts to develop standards for the next generation of air bags and the use of unbelted testing methods. Other Members raised concerns about several instances where NHTSA staff allegedly failed to comply with the prohibition on the lobbying of State and local officials found at §30105 of title 49, U.S. Code. In the past, the Committee has taken these allegations very seriously. It was evidence of inappropriate behavior on the part of

agency officials toward State and local legislators that led to the enactment of that particular provision during consideration of H.R. 2691 and TEA-21. Several Members expressed concern that the agency may now be using novel interpretations of the statutory language to avoid complying with the section's requirements. The Committee reminds the agency that Statement of Managers in the Conference Report to accompany H.R. 2400 (H. Rpt. 105-550) provides the only acceptable interpretation of this language.

HEARINGS

The Committee on Commerce has not held hearings on the legislation.

COMMITTEE CONSIDERATION

On June 10, 1999, the Full Committee met in open markup session and ordered H.R. 2035 reported to the House, without amendment, by a voice vote, a quorum being present.

ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto. There were no recorded votes taken in connection with ordering H.R. 2035 reported. A motion by Mr. Bliley to order H.R. 2035 reported to the House, without amendment, was agreed to by a voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has not held oversight or legislative hearings on this legislation.

COMMITTEE ON GOVERNMENT REFORM OVERSIGHT FINDINGS

Pursuant to clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Reform.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee finds that H.R. 2035, a bill to correct errors in the authorizations of certain programs administered by the National Highway Traffic Safety Administration, would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 24, 1999.

Hon. TOM BLILEY,
*Chairman, Committee on Commerce,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2035, a bill to correct errors in the authorizations of certain programs administered by the National Highway Traffic Administration.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is James O'Keeffe.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 2035—A bill to correct errors in the authorizations of certain programs administered by the National Highway Traffic Administration

Summary: H.R. 2035 would increase the authorization of appropriations for the National Highway Safety Administration's (NHTSA's) motor vehicle safety and information programs from a total of about \$87 million to about \$108 million for each of fiscal years 2000 and 2001. These two programs were authorized at the current levels of \$81 million and \$6 million, respectively, in the Transportation Equity Act for the 21st Century (Public Law 105-178).

Assuming appropriation of authorized amounts, CBO estimates that implementing H.R. 2035 would result in additional discretionary spending of about \$40 million over the 2000-2004 period, relative to the amounts authorized under current law. H.R. 2035 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2035 is shown in the following table. For the purposes of this estimate, CBO assumes that H.R. 2035 will be enacted by the end of fiscal year 1999 and that the authorized amounts will be appropriated for each year. Estimated outlays are based on historical spending patterns for the two affected programs. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—					
	1999	2000	2001	2002	2003	2004
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law:						
Authorization Level ¹	87	87	87	0	0	0
Estimated Outlays	82	89	90	37	13	4
Proposed Changes:						
Authorization Level	0	20	20	0	0	0
Estimated Outlays	0	12	17	7	3	1
Spending Under H.R. 2035:						
Authorization Level	87	108	108	0	0	0
Estimated Outlays	82	101	107	44	16	5

¹ The 1999 level is the amount appropriated for that year for NHTSA's motor vehicle safety and information programs. Public Law 105–178 authorized the same amount for 2000 and 2001.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 2035 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: James O'Keeffe.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional authority for this legislation is provided in Article I, section 8, clause 3, which grants Congress the power to regulate commerce with foreign nations, among the several States, and with the Indian tribes.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Amendments to title 49, United States Code

Subsection (a) changes the annual authorization for motor vehicle safety programs for Fiscal Years 1999–2001 from \$81,200,000 to \$98,313,500. Subsection (b) changes the annual authorization for motor vehicle information and cost savings programs for Fiscal Years 1999–2001 from \$6,200,000 to \$9,562,500.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 49, UNITED STATES CODE

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SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS

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PART A—GENERAL**CHAPTER 301—MOTOR VEHICLE SAFETY**

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SUBCHAPTER I—GENERAL

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§ 30104. Authorization of appropriations

There is authorized to be appropriated to the Secretary **[\$81,200,000]** *\$98,313,500* for the National Highway Traffic Safety Administration to carry out this part in each fiscal year beginning in fiscal year 1999 and ending in fiscal year 2001.

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PART C—INFORMATION, STANDARDS, AND REQUIREMENTS

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CHAPTER 321—GENERAL

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§ 32102. Authorization of appropriations

There is authorized to be appropriated to the Secretary **[\$6,200,000]** *\$9,562,500* for the National Highway Traffic Safety Administration to carry out this part in each fiscal year beginning in fiscal year 1999 and ending in fiscal year 2001.

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